

KITCO DEFENSE SUPPLIER PO REQUIREMENTS

1 Definitions

PO – Purchase Order

FOD – Foreign object debris

FAR – Federal Acquisition Regulation

ESD – Electrostatic discharge

SDS – Safety Data Sheet

DFARS – Defense Federal Acquisition Regulation Supplement

QPL – Qualified Products List

2 General Provisions

2.1 Applicability: These terms and conditions of purchase are applicable to purchases made by Kitco, LLC dba Kitco Defense. (“Buyer”) from its vendors and/or suppliers (“Seller”).

2.2 Acceptance And Acknowledgement: Acknowledgment of a PO must be prompt and must confirm the Buyer’s required shipping date. Any performance on a PO is deemed an acceptance, without exception, of the terms and conditions set forth on the face of the PO and in these terms and conditions of purchase.

2.3 Notification Of Change: The Seller shall notify the Buyer in writing when there are significant facility or organizational changes such as: company name, location, senior quality management, manufacturing line changes, and changes to processes, and, where required, obtain approval.

2.4 FOD: The Seller shall ensure that all parts supplied are free of any debris or foreign objects.

2.5 Alternate Parts: Alternate parts are not permitted unless specified on the PO.

2.6 Changes: The Buyer may at any time, by written order, make changes within the general scope of the PO in any one or more of the following:

Drawings, designs, or specifications, where the goods to be furnished are to be specially manufactured for the Buyer in accordance therewith.

- a. Method of shipment or packing.
- b. Time and/or place of delivery, and
- c. The period of performance of work and the Seller shall comply therewith.

If any such change causes an increase or decrease in the cost of or the time required for the performance of any part of the work under the PO, whether changed or not changed by any such order, an equitable adjustment shall be made in the PO price or delivery schedule, or both, and the PO shall be modified in writing accordingly. Except as expressly provided for elsewhere in the PO, the parties agree that there shall be no adjustment in the price or time for performance hereunder unless an authorized representative of the Buyer's Purchasing Department shall have directed the change by the issuance of an updated PO.

2.7 Default Of Contract: The Buyer may, by written notice of default to the Seller, cancel the whole or any part of the PO in any one of the following circumstances:

- a. The Seller fails to make delivery of the goods or to perform the services within the time specified in the PO or any extension granted thereof, or
- b. The Seller fails to perform any of the other provisions of the PO, or so fails to make progress as to endanger performance of the PO in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the Buyer may authorize in writing) after receipt of notice from the Buyer specifying such failure.

In the event the Buyer cancels the PO in whole or in part as provided in this clause, the Buyer may procure upon such terms and in such manner as the Buyer may deem appropriate and reasonable, goods or services similar to those so cancelled, and the Seller shall be liable to the Buyer for any excess costs for such similar goods or services. The Seller shall continue the performance of the PO to the extent not cancelled under the provision of this clause.

Except with respect to defaults of subcontractors, the Seller shall not be liable for any excess costs if the failure to perform the PO arises out of causes beyond the control and without the fault or negligence of the Seller. Such causes may include, but are not restricted to, acts of God or a public enemy, acts of the Buyer, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the Seller. If the failure to perform is caused by the default of a subcontractor and if such default arises out of causes beyond the control of both the Seller and subcontractor, and without the fault or negligence of either of them, the Seller shall not be liable for any excess costs for failure to perform unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Seller to meet the required delivery schedule.

If the PO is canceled, the Buyer, in addition to any other rights provided in this clause, may require the Seller to transfer title and deliver to the Buyer, in the manner and to the extent directed by the Buyer:

- a. Any completed goods

- b. Partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter “manufacturing materials”) as the Seller has specifically produced or specifically acquired for the performance of such part of the PO as has been cancelled, and the Seller shall, upon direction of the Buyer, protect and preserve property in possession of the Seller in which the Buyer or its customers have an interest. Payment for complete goods delivered to and accepted by the Buyer shall be at the PO price. Payment for manufacturing materials delivered to and accepted by the Buyer and for the protection and preservation of property shall be in an amount agreed upon by the Seller and the Buyer.

If, after notice of cancellation of the PO under the provisions of this clause, it is determined for any reason that the Seller was not in default under the provisions of this clause or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of cancellation had been issued pursuant to the clause of this Agreement entitled “Termination for Convenience.”

The rights and remedies of the Buyer provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

2.8 Termination For Convenience: The performance of work under the PO may be terminated in whole or part by the Buyer for its convenience in accordance with the provisions set forth in FAR Part 49.

2.9 Non-Discrimination & Fair Labor Standards Act: The Seller hereby certifies that all goods sold hereunder which are produced or manufactured in the United States are produced in compliance with all applicable requirements, orders and regulations of the United States Federal Government pertaining to nondiscrimination in employment and facilities including, but without limitation to, the provisions contained in paragraphs one through seven of Part II, Nondiscrimination in Employment by Government Contractors and Subcontractors, of Executive Order 11246 (as amended by Executive Order 11375), Certification of Non-segregated Facilities (41 CFR Chap.1, Section 1-12.803-10), the Equal Opportunity and Affirmative Action clauses as required by 41 CFR 60-1.4 (f) (7), 60-250.4(m) and 60-741.4 (f), and the Fair Labor Standards Act of 1938 as amended (29 U.S. Code 201-219), all of which provisions are incorporated herein by reference and expressly made a part hereof. The Seller also certifies full compliance with all state and local laws and orders relating to nondiscrimination in employment and facilities that are applicable to the Seller.

2.10 Seller Product Conformity, Safety And Ethical Behavior:

Products and services provided to Kitco Defense may be used in critical safety applications where supplier product quality and conformity can have an impact on the safety and well-being of military personnel.

Therefore:

- a. Sellers are expected to conduct business in an ethical manner in all interactions with Kitco Defense, and hold their workforce accountable for ethical behavior.
- b. Sellers will ensure that persons under their control are trained and competent in their respective roles, and aware of their contribution to product or service conformity and product safety.
- c. The buyer may request training documentation to verify ethical standards, product conformity and product safety expectations and awareness are being communicated to their workforce.

2.11 Evidence of Qualification of Personnel

Sellers will determine, implement, and maintain a process to ensure competence of personnel performing manufacture and/or work-affecting quality and provide training or take other actions to satisfy competency requirements.

The buyer may request documentation to verify competency and training of the workforce.

3 Transportation, Shipping, Packaging, Marking, Routing

3.1 Packaging: The Seller shall ensure parts are adequately packaged and protected to preclude damage in transit. Except where otherwise specified, packaging of parts shall comply with best commercial practices, including the following:

- a. Hazardous materials, including compressed gases, shall be in approved containers.
- b. Electronic equipment sensitive to ESD must be appropriately protected.
- c. Product shall be protected against rust or corrosion.

3.2 Packaging Identification: Unless otherwise specified in the PO, part specification or drawing, the shipping container of each delivery shall contain as a minimum the Buyer's PO Number, Part Number and Quantity.

3.3 Delivery: Delivery shall be made as specified and strictly in accordance with the delivery schedule of the PO. All orders should be shipped via FedEx on the Buyer's FedEx account, unless otherwise specified by the Buyer. If the Seller's deliveries fail to meet the delivery schedule set forth in the PO requiring the Buyer to elect expedited shipments from the Seller, the Seller will pay the difference between the method of shipping specified on the PO and premium transportation rates, unless the delay in delivery arises out of causes beyond the control and without the fault or negligence of the Seller within the meaning of the clause hereof entitled "Default." the Buyer reserves the right, without loss of discount privileges, to pay

invoices covering goods shipped in advance of the schedule on the normal maturity after the date specified for delivery.

4 Material

4.1 Counterfeit Parts: The Seller shall ensure that only new and authentic materials are used in items delivered to the Buyer and meet the intent of standards SAE AS6174 Counterfeit Materiel and AS5553 Counterfeit Electronic Parts. These standards were created to provide uniform requirements, practices and methods to improve the likelihood of only acquiring authentic and conforming materiel of any type in any industry sector. The Seller may only purchase material or items directly from original manufacturers, or authorized distributors. Use of material that was not provided by these sources is not acceptable unless first approved in writing by the Buyer.

4.2 Altered Items: MS and/or NAS hardware which have been altered and re-identified with another identification number must have a manufacturer's C of C that acknowledges the unaltered item was compliant with the specification for which it was manufactured.

4.3 Age Control Materials: The Certificate of Conformance shall include cure date, batch number, part number, specification number, and compound type with each shipment of "O" rings, seals, gaskets and other shelf-life items.

If part/material is not listed in SAE ARP5316, the Seller shall indicate material and recommended shelf life (e.g. proprietary parts).

Elastomeric parts, unless otherwise specified, shall have a minimum 85% of shelf-life remaining at time of receipt at the Buyer's facility.

Adhesives, paints, sealants and other items that have age control, shall have a minimum 85% of shelf-life remaining.

Lubricated Bearings shall have minimum 85% of recommended lube life remaining at time of receipt by the Buyer.

4.4 Asbestos Free: No asbestos, as defined in FED-STD-313, is permitted in any parts supplied to the Buyer, unless specifically agreed and stated on the PO.

4.5 Mercury Free: Unless specifically agreed and stated on the PO, parts may not contain or have come in direct contact with mercury.

4.6 Dangerous Or Hazardous Materials: For items classified as a dangerous or hazardous material by a transport regulatory authority, the Seller shall:

- a. Label the packaging according to the requirements of transport regulatory authority.
- b. Include a copy of the SDS as published by the manufacturer.

5 Intellectual Property, Proprietary Data

5.1 Record Retention: Certification and inspection records shall be retained by the Seller for no less than 10 years from the date of shipment.

5.2 Patent Indemnity: The Seller agrees to indemnify the Buyer and its customers against any liability including costs and expenses, for or by reason of any actual or alleged infringement of any patent arising out of the manufacture, use, sale, or disposal of goods or articles furnished under the PO except where such goods or articles would be normally non-infringing but are rendered infringing by reason of the Seller's compliance with the Buyer's detail, design, and stated requirement for specific structure and the Seller gives prompt notice of any claim of infringement related thereto. Where the Buyer furnishes the Seller with detail design, stated requirement for specific structure, or specifications for goods or articles to be furnished hereunder by the Seller to the Buyer, the Seller agrees to waive any rights to be held harmless by the Buyer against any claims for infringement or the like and covenants not to sue the Buyer to enforce any such hold harmless agreement.

5.3 Rights And Reservations: Rights to all drawings, designs, information, tools, patterns, equipment, and other items supplied by the Buyer, and proprietary rights embodied therein, are reserved, and the same shall not be used or reproduced for any purpose whatsoever except the performance of work under the PO.

6 Payment Terms

6.1 Invoicing: Delays in receiving invoice, errors or omissions on invoice, or lack of supporting documentation required by the terms of the PO, will be cause for withholding settlement without losing discount privileges. No charges shall be allowed for boxing, crating, packaging, or any other handling unless such provisions are agreed to in writing.

7 Seller Warranty

7.1 Warranty: The Seller warrants that all goods delivered under the PO will be merchantable, free from defect in material and workmanship, and will conform to applicable specifications and drawings if the Seller is responsible for design of the goods according to performance specifications established by the Buyer. The Seller warrants that all goods delivered under the PO will be free from defect in design and will be fit and sufficient for the purposes intended by the Buyer. The Buyer's approval of designs furnished by the Seller shall not relieve the Seller of its obligations under this warranty. The Seller's warranties together with its service guarantees, if any, shall pass on to the Buyer and its customers.

- a. The Seller's liability for breach of any warranty, as herein above set forth, shall be limited to the repair or replacement, at the Buyer's election, of all

defective or nonconforming goods and the payment of all packing and transportation costs attributable to the repair or replacement of defective or nonconforming goods.

- b. The Seller's obligations under this clause shall apply only to such defects or nonconformance as occur within one (1) year after such item was delivered to, and accepted by, the Buyer. Where the Buyer will incorporate this item in an end item to be delivered to its customers, The Seller's obligation under this clause shall be extended to one year after delivery of said end item to the customer.

8 Legal

8.1 Right Of Entry: the Buyer's representatives shall be granted the right to verify at the Seller's premises that furnished product, processes and records conform to specified requirements. The same rights are reserved for our customers, and for Regulatory Authorities.

8.2 Compliance With Laws And Regulations: The Seller agrees to comply with all applicable Federal, State, and Local laws, rules, and regulations.

FAR and DFARS clauses, where applicable by their terms and/or monetary threshold, are incorporated by reference as if set forth in full text. The effective version of each FAR or DFARS clause shall be the same version as that which appears in Buyer's prime contract or subcontract. If any of the clauses are not applicable by their terms and/or monetary value, they shall be self-deleting. Within the clauses, it is understood that the term "contractor" shall mean Seller, the term "contract" shall mean this contract, and "Government", "Contracting Office", and equivalent terms shall mean Kitco Defense:

8.3 Venue Selection/Choice Of Law: This agreement shall be deemed to have been made in the State of Utah, U.S.A. and shall be interpreted in accordance with the law of the state of Utah without regard to conflict of law principles. The Seller consents to the exclusive jurisdiction of the state and federal courts of the state of Utah, U.S.A., for determination of any claim or controversy between the parties and arising out of or relating to these terms and conditions of purchase. In the event that the Buyer shall engage an attorney or commence an action against the Seller arising out of facts and circumstances related to these terms and conditions of purchase including, but not limited to, the Seller's breach of any of its obligations hereunder, the Buyer shall be entitled to recover its reasonable attorney's fees, costs, and other disbursements incurred in connection therewith.

8.4 Export Compliance: The Seller acknowledges that access to articles, technical data or software used in the manufacture of parts or products supplied to the

Buyer is subject to U.S. export controls under 22 CFR 120-130 (International Traffic in Arms Regulations) or 15 CFR 700-786 (Export Administration Regulations) and their supplement laws and regulations, hereinafter referred to as the "Export Laws and Regulations." Technical Data that is controlled by the ITAR, EAR, or other applicable export restrictions shall not be released to foreign national, including foreign national employees of U.S. companies, foreign companies or other entities without first obtaining the appropriate export license or other approval from the U.S. Government.

Parties agree to comply with any and all Export Laws and Regulations. The disclosing party will use their best efforts to ensure that all such articles and technical data will be referenced or bear the markings of "ITAR", "Export Controlled", or similar legend.

9 Quality

9.1 Seller Quality System: Manufacturing facilities shall have a certified quality management system such as ISO9001 or AS9100. Distributors shall comply with FAA AC 00-56A, ASA100 or AS9120.

9.2 Inspection Sampling: The Seller shall maintain documented Inspection Plans that identify inspection requirements and record results. Sampling plans for attributes must be in accordance with the PO.

9.3 Certificate Of Conformance: The Seller shall submit with each shipment a certificate of conformance stating products shipped comply with PO requirements and all applicable drawings & specifications.

The certificate shall include PO number, part number with revision level (when available), quantity, lot/batch number, serial number (where applicable), cure date/lube date (where applicable), and be signed and dated by an Authorized Company Representative including title.

All certification must be clearly legible. Poor copies may result in rejection of order at the Seller's expense. All certification should be in English language.

Unless agreed in writing by the Buyer, when the Seller is not the Manufacturer, the Manufacturer's Certificate of Compliance is required, together with certification from any intervening distributor.

SDS with any delivery of hazardous material, the Seller shall provide the current edition of the SDS published by the manufacturer.

9.4 Fastener Test Reports: If specified on the PO, Chemical, Mechanical and Physical test reports are required for hardware (bolts, nuts, screws, rivets and studs) having a nominal diameter of 0.25" (inch) or greater. If specified on the PO bolts and screws shall be packaged to protect the threads from damage. Protective sleeves are recommended for threaded diameters greater than 0.25"

(inch). When not protected by sleeving and also bulk packaged, smaller bulk quantities are recommended to reduce the potential of thread damage due to mass weight.

9.5 Lot Integrity: Each manufacturer's lot in each shipment must be segregated and identified.

9.6 Revision Level: Unless otherwise specified, parts shall be to the latest revision of the specification in effect at time of PO. Please indicate revision level on certifications.

9.7 Use Of Sub-Tier Suppliers: Where use of sub-tier suppliers is permitted, the Buyer PO, drawing and specification requirements shall be flowed down by the Seller to their sub-tier processors and suppliers. Examples include Defense Priority Rating, use of approved sources, key characteristics, sampling requirements, etc.

9.8 QPL: Where a QPL (Government or Industry) applies, the Seller shall ensure parts are manufactured by and traceable to the approved manufacturer.

9.9 Seller Deviations / Waivers: The Buyer is not authorized to provide MRB disposition. In the rare event that circumstances require a request for Deviation/Waiver, this will be submitted to the Buyer's customer / U.S. Government for disposition. The Seller will be liable for all costs incurred by the Buyer for submittal of such requests, regardless of acceptance or rejection.

Requests for deviations/waivers must be submitted for approval to the Buyer using the Seller's own Deviation / Waiver Request form and be approved prior to shipment of product.

When a Deviation / Waiver has been approved by the Buyer's customer, the Seller shall enclose a copy of the approved form with each shipment. All affected product shall be identified and segregated from conforming parts.

The Seller shall provide details of cause and corrective action.

The Seller shall notify the Buyer when product is found not to conform to the design data prior to shipment to obtain approval for non-conforming product disposition.

The Seller shall notify the Buyer when product is found not to conform to the design data after shipment.

9.10 Surplus Parts: Unless specified on the Buyer's PO, surplus (NS) parts are not acceptable. Where surplus parts are allowed, they shall be in new, unused condition, and traceable in one of the following ways:

- a. to a FAA Part 121 or Part 129 approved airline, with signed certificate from that airline

- b. to a manufacturer overrun in original manufacturer packaging, with documented trace to manufacturer
- c. to a U.S. Government contract, in the original packaging, and with the original contract number

9.11 Special Processes: Sub-tier providers of special processes shall be approved for the process required by demonstration of one or more of the following but are not limited to:

- a. NADCAP approval
- b. Aerospace Prime Contractor approval (Example: Boeing, Lockheed Martin, Northrop Grumman, Sikorsky etc.)
- c. Prior to the Buyer's approval (may require on-site audit by the Buyer's Quality representative)

"Special processes" include the following but are not limited to: Chemical Processing (Anodizing, plating, and passivation), Coatings, Heat Treating, Materials Testing, NDT, Surface Enhancement (Peening), Welding & Brazing, and Non-conventional machining (EDM etc.) (Reference www.pri-network.org/Nadcap)

9.12 Seller Performance: Seller performance is calculated as follows:

- a. Quality Rating: Quantity of lots inspected without discrepancy / total lots inspected.
- b. On-Time Delivery Rating: Quantity of lots received on time / total lots received.
- c. Seller Composite Rating: On-Time Delivery (50%) and Quality (50%).

9.13 Inspection: All goods, including but without limitation to raw materials, components, intermediate assemblies, and end goods, shall be subject to inspection and test by the Buyer and its customers to the extent practicable at all times and places including the period of manufacture, and in any event prior to acceptance.

In case any goods or lots of goods are defective in material or workmanship or otherwise not in conformity with the requirements of the PO, the Buyer shall have the right to either reject the goods (with or without instructions as to their disposition), or to require their correction with the nonconforming goods returned to the Seller at the Seller's risk and expense, including transportation both ways. Goods or lots of goods which have been rejected or required to be corrected shall be removed, or, if permitted or required by the Buyer, corrected in place by and at the expense of the Seller promptly after notice and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed.

If the Seller fails to promptly remove such goods or lots of goods that require removal, or to promptly replace or correct such goods or lots of goods, the Buyer

either, (i) may by contract or otherwise replace or correct such goods and charge to the Seller the cost incurred thereby, or (ii) may cancel the PO for default as provided in clause 2.7 of this agreement entitled "Default of Contract."

If any inspection or test is made by the Buyer or its customers on the premises of the Seller or a subcontractor, the Seller, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of the Buyer and other inspectors in the performance of their duties.

The Seller shall provide and maintain an inspection system acceptable to the Buyer covering the goods hereunder.

Records of all inspection work by the Seller shall be kept complete and available to the Buyer during the performance of the PO in accordance with 5.1 Record Retention. This clause shall not affect any of the rights or liabilities of the parties under clause 7.1 Warranty.

10 Document History

Document Revision History			
Revision	Date	Description of Revision	Approval Authority
M	09/02/14	Changed shelf life requirement from 75% to 85%	Doug Newcomb
N	03/02/15	Added section 1b 'Notification of Change'. Added section 15 'Export Compliance'. DCR 280.	Doug Newcomb
P	05/20/15	Added a reference to the clause 52.223-18 – 'Encouraging Contractor Policies to Ban Text Messaging While Driving'. DCR 415	Doug Newcomb
A	7/20/17	Update revision level, date, title, format, and typo corrections	Doug Newcomb
B	10/20/17	Add references to SAE AS6174 Counterfeit Materiel and AS5553 Counterfeit Electronic Parts	Kevin Wilding
C	11/17/17	Add section 16 - SUPPLIER PRODUCT CONFORMITY, SAFETY ETHICAL BEHAVIOR	Kevin Wilding
D	06/18/2018	Formatting, added new supplier score.	Kevin Wilding
E	12/07/2018	Full document review & re-write	Kevin Wilding
F	8/30/2019	Punctuation and clarification in section 9.7 Change Kitco Defense to "the Buyer" and Supplier to "Seller" 2.10 Changes for clarification 2.11 Added	Kevin Wilding